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Attached is the daily news report for Jan. 26.

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## BUREAU OF LAND MANAGEMENT

### DAILY NEWS REPORT - UTAH

#### UTAH – TOP STORIES – JANUARY 26, 2017

##### **1. Owens outlines challenges legislators face in new session**

*The San Pete Messenger, Jan. 25 | Representative Derrin R. Owens*

The 2017 legislative session began today at the Capitol in Salt Lake City. Twenty-nine Senators and seventy-five members of the House of Representatives convened for the first day of the constitutionally mandated 45-day session. During the next seven weeks, we will consider legislation from over 1300 open bill files.

##### **2. BLM to honor William Grandstaff by replacing vandalized trailhead signs**

*The Times-Independent, Jan. 26 | Press Release*

The Bureau of Land Management (BLM) Moab Field Office will be replacing signs that were stolen last fall at the Grandstaff Trailhead.

##### **3. Op-ed: Trump EPA nominee would be bad for Utahns' health**

*The Salt Lake Tribune, Jan. 26 | Lindsay Beebe*

Donald Trump's pick to head the Environmental Protection Agency (EPA) poses a huge threat to not only the healthy and safety of Utah families, but also to the iconic public lands that make our state so special.

##### **4. County backs state resolution urging more federal funding for UMTRA cleanup**

*The Times-Independent, Jan. 26 | Molly Marcello*

As funding cuts continue to push back the completion date for the Moab Uranium Mill Tailings Remedial Action Project (UMTRA), the Grand County Council is unanimously pledging support for a state resolution urging the U.S. Department of Energy (DOE) to restore “adequate funding” — an estimated \$45 million annually — to complete the cleanup work by 2025. The council is also asking state officials downriver in California, Nevada and Arizona to support the resolution, which will be introduced at the Utah Legislature by Sen. David Hinkins (R-Orangeville).



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#### **5. Resolutions filed in the Utah House to repeal Bears Ears, shrink Grand Staircase-Escalante monuments**

*Fox 13 News, Jan. 25 | Ben Winslow, The Associated Press*

SALT LAKE CITY — Two top Republicans in the state House have filed resolutions urging President Donald Trump to take action on a pair of national monuments in Utah.

#### **6. NATIONAL MONUMENTS: Chaffetz presses top Trump officials to reverse Bears Ears**

*The Standard-Examiner, Jan. 25 | Jack Troyer*

PHILADELPHIA — House Oversight and Government Reform Chairman Jason Chaffetz is urging top Trump administration officials to overturn former President Obama's designation of the 1.35-million-acre Bears Ears National Monument in southeast Utah.

#### **7. Conservation groups buck against Noel's bid for BLM director**

*The Spectrum, Jan. 26 | David DeMille*

Kane County's own Mike Noel has been publicly campaigning for the position of director of the Bureau of Land Management, but a group of conservation advocates and outdoor recreation businesses are urging President Donald Trump's administration to look elsewhere.

#### **8. 'Brown Bag Lecture' series returns with rangers, geologists, national monuments**

*St. George News, Jan. 26 | Press Release*

ST. GEORGE — The "Brown Bag Lecture" series returns on Fridays in February with an "Ask the Ranger" session, a geologist discussing the geology of Washington County and two informative sessions about national monuments.

#### **9. Move for state park at Hole in the Rock advances**

*The Salt Lake Tribune, Jan. 26 | Lee Davidson*

The Utah House on Thursday endorsed pursuing the possible creation a new state park on federal land around Hole in the Rock, a famous cleft in a cliff over the Colorado River that was traversed amid danger by early Mormon pioneers.



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#### E&E/NATIONAL NEWS – TOP STORIES

##### **1. Federal hiring freeze hits Western land agencies**

*High Country News, Jan. 25 | Anna V. Smith*

President Donald Trump announced a freeze on all federal hiring on Monday, eliminating any vacant positions and prohibiting the creation of new positions as of noon on Jan. 22. The presidential memorandum will affect all federal agencies except the military, and includes land management employees. It follows on the heels of another announcement that U.S. Department of Agriculture and Environmental Protection Agency grants and contracts will be frozen.

##### **2. New House Bills Aim to Sell Off Public Lands and to "Get Rid of the BLM and US Forest Service Police"**

*Mens Journal, Jan. 26 | Tyghe Trimble*

On Tuesday, Jason Chaffetz (R-UT) introduced two bills (H.R. 621 and H.R. 622) with the explicit aim to sell Federal lands and "terminate the law enforcement functions of the Forest Service and the Bureau of Land Management." While 622 never made it further than its introduction last year — a time when Secretary Sally Jewell ran the Department of Interior under the Obama administration — the chances of this bill going further are much more likely, given the Republican control of the House, Senate, and, now, the Executive branch of the U.S. government.

##### **3. INTERIOR: Notices, correspondence to be reviewed by Trump team — memo**

*E & E News, Jan. 26 | Jennifer Yachnin*

All Interior Department public notices as well as most correspondence will require review by the agency's top policy office for the foreseeable future, according to a memo sent to agency officials this week.

##### **4. COAL: Recouping court costs of 'national importance' — Murray**

*E & E News, Jan. 26 | Amanda Reilly*

Murray Energy Corp. is hoping to recoup nearly \$4 million from the federal government for its lawsuit over coal job losses tied to U.S. EPA air regulations.



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**5. OREGON STANDOFF: Finicum's widow plans to hold government 'accountable'**

*E & E News, Jan. 26 | Maxine Bernstein, Portland Oregonian*

A year ago, Jeanette Finicum was watching her daughter's basketball game at Fredonia High School when she overheard something about a shooting in Oregon.

**6. WYOMING: Bill would require utilities to use fossil fuels**

*E & E News, Jan. 26 | Mead Gruver, AP/San Francisco Chronicle*

CHEYENNE, Wyo. — A group of Wyoming lawmakers is bucking the U.S. trend of stricter renewable energy requirements with a plan to do the opposite: fine utilities if they provide energy produced by wind or the sun.

**7. HYDRAULIC FRACTURING: Study links fracking fluids to health problems in trout**

*E & E News, Jan. 26 | Juris Graney, Vancouver Sun*

Non-lethal doses of fluids produced by hydraulic fracturing have been found to cause liver and gill damage in rainbow trout, a team of researchers at the University of Alberta say.

**8. NORTH DAKOTA: Bill influenced by Dakota Access protests faces questions**

*E & E News, Jan. 26 | John Hageman, Billings Gazette*

A bill that would make it a crime for protesters to wear masks generated fierce debate at a North Dakota legislative committee hearing Tuesday.

**9. COURTS: Climate plaintiffs to feds: Don't destroy evidence**

*E & E News, Jan. 26 | Benjamin Hulac*

Lawyers for a group of kids and young adults suing the U.S. government over climate change destruction are demanding federal agencies retain all documents related to the case.



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**10. CLIMATE: Industry urges White House to ax social cost of carbon**

*E & E News, Jan. 26 | Hannah Hess*

The Air-Conditioning, Heating and Refrigeration Institute today called on President Trump to withdraw the latest update to the social cost of carbon.

**11. FEDERAL AGENCIES: House Dems call gag orders unlawful**

*E & E News, Jan. 26 | Geof Koss*

House Democrats are calling on the White House to immediately ease instructions to federal employees that limit external communication, saying the restrictions run afoul of whistleblower protections and other federal laws.

**12. EPA: Dems push back against agency grants freeze**

*E & E News, Jan. 26 | Kevin Bogardus*

The Trump administration's initial move to freeze grants at U.S. EPA is being met with a fierce backlash from Democrats on Capitol Hill.

**13. DAKOTA ACCESS: Protesters sent home as fight shifts to D.C.**

*E & E News, Jan. 26 | Jenny Mandel*

Anti-pipeline protesters were told to leave a prominent camp in North Dakota, days before President Trump signed executive actions Tuesday to advance the Dakota Access pipeline.

**14. CLEAN POWER PLAN: States seize on another angle to challenge rule**

*E & E News, Jan. 26 | Amanda Reilly*

States this week opened a new front in the legal battle over the Obama administration's signature climate change rule.



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#### 15. DAKOTA ACCESS: Standing Rock leader asks Trump to respect EIS

*E & E News, Jan. 26 | Cecelia Smith-Schoenwalder*

Standing Rock Sioux Chairman Dave Archambault II urged President Trump to allow completion of the full environmental impact statement for the Dakota Access pipeline in a letter published today.

#### 16. FEDERAL AGENCIES: Top State Department managers resign — report

*E & E News, Jan. 26 | Robin Bravender and Hannah Hess*

Top State Department officials resigned yesterday, ahead of Rex Tillerson's expected confirmation to become the next secretary of State, The Washington Post reported today.

#### 17. FEDERAL AGENCIES: Top State Department managers resign — report

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## BUREAU OF LAND MANAGEMENT

### DAILY NEWS REPORT - UTAH

#### UTAH – FULL STORY

##### 1. Owens outlines challenges legislators face in new session

*The San Pete Messenger, Jan. 25 | Representative Derrin R. Owens*

The 2017 legislative session began today at the Capitol in Salt Lake City. Twenty-nine Senators and seventy-five members of the House of Representatives convened for the first day of the constitutionally mandated 45-day session. During the next seven weeks, we will consider legislation from over 1300 open bill files.

Utah is the envy of the country in many aspects. When it comes to transparency, our state is second to none. Every comment, action and vote are live for public view. Please follow bills of interest, listen to committee hearings and watch live Senate/House chamber debates. Find legislative contact information plus a wide host of other services at [le.utah.gov](http://le.utah.gov).

Each session seems to develop a life of its own. This year will include continued efforts to push back against federal overreach and hopefully see the new administration overturn the latest land grab of the Bears Ears National Monument.

Like most citizens, I was upset when I heard the news on Dec. 28 that former President Obama had signed over another 1.35 million acres of Utah land to another national monument. Over 108,000 acres of the new monument was state school trust land property.

East of Colorado there isn't a state with more than 5 percent federally controlled land. Utah is under almost 70 percent federal control. It is remarkable how we have flourished, but it can't be sustained on only 30 percent of our real estate. It would be funny if it weren't true, but the picture Mr. Obama tweeted when he signed the Bears Ears monument designation was of Arches National Park. Very sad and out of touch!

This session will also see legislation considered about a variety of topics from education, medical, Little Sahara's possibility to become a State Park, convention of states, medical marijuana, taxation, agriculture, renewable energy, homelessness, water, clean air and environmental issues and much more.

Also, follow "Miley's Bill" inspired by a little girl in Manti to see if it is signed into law to make Utah the second state with a Child Abuse Registry.

I appreciate the honor of representing Juab and Sanpete counties.



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Representative Derrin R. Owens  
District 58

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#### **2. BLM to honor William Grandstaff by replacing vandalized trailhead signs**

*The Times-Independent, Jan. 26 | Press Release*

The Bureau of Land Management (BLM) Moab Field Office will be replacing signs that were stolen last fall at the Grandstaff Trailhead.

BLM officials said that while viewpoints differ regarding the best way to honor William Grandstaff, the namesake of Negro Bill Canyon, and to interpret his important role as a mixed-race early settler in the Moab area, “differences in documented written information and local oral history have led to different interpretations of historical events.”

“The BLM has been part of changing perspective that emphasizes using the name he used for himself, based on historical records,” agency officials said in a news release.

The BLM renamed the campground near the mouth of the canyon several years ago and renamed the trailhead last year. An interpretive sign near the trailhead includes known facts about William Grandstaff and his ties to the canyon.

“BLM’s intent is to correct misconceptions, such as the spelling of Grandstaff’s name, and portray what is known based on existing historical records,” the news release stated.

Most accredited sources indicate William Grandstaff was born in Alabama in 1840. He was of mixed race, most likely of African and American Indian descent. He arrived in Utah in 1877, and was one of Moab’s first settlers, taking up residence in the abandoned Elk Mountain Mission Fort north of town. The fort had been abandoned more than 20 years earlier due to conflicts between early pioneers and local Indians.

Grandstaff created a small garden, built two ice houses east of the fort, and also built a cabin in the canyon where he grazed cattle and established friendly relations with the local Indians, according to historical sources. He left in 1881.

Later historical accounts offer a picture of an earnest and respected businessman in Colorado. He was married in 1891, although his wife died only a few years later. He retreated to a cabin on Red Mountain near Glenwood Springs, Colorado, where he died in 1901.



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“Census sheets from 1880 and 1900, legal documents, and several news articles in Glenwood papers spelled his name “Grandstaff,” which is the spelling that BLM chose for the trailhead and interpretive signs,” BLM officials said.

Renaming the trailhead does not affect the name of the canyon. That authority lies with the United States Board on Geographic Names. However, the BLM’s position is consistent with the recent vote by Grand County Council recommending that the name of the canyon be changed, according to the news release.

“The BLM has recommended to the U.S. Board on Geographic Names that the canyon be renamed “Grandstaff Canyon,” said Gary Torres, BLM-Utah acting associate state director. “This action, as well as renaming the trailhead and campground, and replacing these signs, signal BLM’s commitment to honoring William Grandstaff and preserving his important role in local history.”

BLM officials said the signs, which cost in excess of \$800 each, are expensive to replace and they are asking the public to respect the signs and “to protect public lands and resources.”

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### 3. **Op-ed: Trump EPA nominee would be bad for Utahns' health**

*The Salt Lake Tribune, Jan. 26 | Lindsay Beebe*

Donald Trump's pick to head the Environmental Protection Agency (EPA) poses a huge threat to not only the healthy and safety of Utah families, but also to the iconic public lands that make our state so special.

Scott Pruitt is a climate change denier whose record isn't pretty. He got caught working hand in glove with the oil industry, going so far as to send letters to the White House with his signature on Big Oil's stationery. If he leads the EPA, Utah should expect Pruitt to roll back safeguards put into place to protect our depleting water resources, reduce air pollution for children and families and support clean energy jobs across our state.

The Wasatch Front is already suffering from high rates of asthma and cancer. The community can't afford any increase in life-damaging pollution. But with someone who is actively hostile to enforcing clean air protections leading EPA, who will Utahns have to call on when polluters use their backyard as a dumping ground for smog and soot? Who can we count on to protect our air



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and water? Without cooperation from EPA, Utah won't have the tools we need to keep our families safe.

Just a few weeks ago, I visited Arches National Park and Dead Horse State Park and was shocked to see how dramatic the haze pollution there has become. I brought friends, hoping to show off the best of my state, only to find stunning views hid behind a veil of smog, distorting the beauty that sat before us. The pollution in our national parks has gotten so bad they might as well be in Shanghai.

Utah only recently learned that we, like neighboring states, would be protected from air pollution in our national parks by EPA's regional haze standard. Small business owners, pro skiers, health experts and other Utahns banded together to ask EPA to protect us from this view-ruining, health-damaging air pollution — and we won! But with Scott Pruitt as head of EPA, all our progress will be undone. Pruitt sued EPA to stop these very same clean air protections for national parks in Oklahoma. We can hardly expect him to defend our air if he is appointed EPA administrator.

Pruitt has also challenged common-sense regulations designed to protect basic health and safety, like limits on dangerous levels of mercury and arsenic. Mercury is a potent neurotoxin that poses a particularly high risk for pregnant mothers and young children. Utah's waterways are already notoriously polluted by toxic mercury, with 11 of our counties subject to fish consumption advisories due to high levels of mercury. Pruitt is leading the legal challenge to try and have this rule thrown out by the courts and allow even more mercury into our environment.

Having Pruitt in charge of EPA is like putting an arsonist in charge of fighting fires. If his nomination makes it through Congress, all our recent progress on air quality and water standards will be lost as he dismantles the infrastructure of EPA. We have everything to lose, and nothing to gain. Analysts agree that our coal industry is unlikely to revive regardless of what actions Trump or Pruitt take because of market realities in and outside the United States.

The people of Utah deserve an EPA administrator who will protect our air and water, enforce protections that keep our families and children safe from dangerous pollutants and defend bedrock environmental protections that save lives and ensure healthy communities.

Pruitt — who sued the EPA to undo critical safeguards on toxins and pollutants and accepted hundreds of thousands of dollars in campaign cash from the fossil fuel industry he would be charged with regulating at EPA — is not that person.

*Lindsay Beebe is organizing representative for the Sierra Club's Beyond Coal campaign.*



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#### **4. County backs state resolution urging more federal funding for UMTRA cleanup**

*The Times-Independent, Jan. 26 | Molly Marcello*

As funding cuts continue to push back the completion date for the Moab Uranium Mill Tailings Remedial Action Project (UMTRA), the Grand County Council is unanimously pledging support for a state resolution urging the U.S. Department of Energy (DOE) to restore “adequate funding” — an estimated \$45 million annually — to complete the cleanup work by 2025. The council is also asking state officials downriver in California, Nevada and Arizona to support the resolution, which will be introduced at the Utah Legislature by Sen. David Hinkins (R-Orangeville).

Council member Mary McGann chairs the Moab UMTRA steering committee — a group of local stakeholders — and has spearheaded an effort to find better funding for the project since 35 employees were laid off at the site in April.

“[The resolution] is the beginning to help when a group of us go up to [Washington D.C.] to meet with the Department of Energy to be the squeaky wheel and ask for funding so that instead of finishing the project in 2034 it will be finished in 2024,” McGann said.

In 2008, then-Rep. Jim Matheson and former Sen. Bob Bennett added language to the National Defense Authorization Act requiring that the work to relocate the 16 million tons of Cold War-era uranium waste be completed by 2019. Local officials say that date would have been within reach if Moab UMTRA received adequate funding.

The project is currently slated to receive \$34.8 million in federal fiscal year 2017, down from \$38.6 million in fiscal year 2016.

“You all understand that funding is somewhat fluid ... Year to year it changes dependent on various priorities by the Department of Energy,” Grand County Technical Inspector Lee Shenton told the council Jan. 17.

The Moab UMTRA project reached a milestone last year, when 8 million tons —50 percent of the tailings — were relocated to the permanent disposal site near Crescent Junction, about 30 miles north of Moab.



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During the stimulus funding era when the project received approximately \$40 million annually, Moab UMTRA crews shipped more than 200,000 tons of tailings each month to Crescent Junction using 10 trains per week, Shenton said.

Now, because of decreased funding, the project ships approximately 37,000 tons per month using two trains per week.

“If the project continues at its current funding moving the tailings, it is estimated that it will take until 2034 to complete,” the resolution approved by the county council states. “This will cost the taxpayers an estimated \$250 million more than if the project were completed by 2025.”

Both McGann and Shenton said remediation below ground at the site must still occur after the actual tailings pile is removed.

Although the 16-million ton estimate includes two feet of below-grade material, Shenton said it is unclear at this point how much material must actually be excavated and removed below the current pile.

“... As far as I know, they don’t and can’t know how much additional material they will have to take out from beneath the pile,” Shenton told the council. “They have to get most of the pile gone first.”

The state resolution supported by the council reminds the DOE of its “Cold War legacy responsibilities,” and asks the federal government to work “aggressively” in addressing the cleanup at the Moab UMTRA site.

Meeting the challenges of the 21st century, the resolution states, “involves the transport of uranium mill tailings away from their current location near the Colorado River and Arches National Park to a DOE disposal facility in Crescent Junction.”

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#### 5. **Resolutions filed in the Utah House to repeal Bears Ears, shrink Grand Staircase-Escalante monuments**

*Fox 13 News, Jan. 25 | Ben Winslow, The Associated Press*

SALT LAKE CITY — Two top Republicans in the state House have filed resolutions urging President Donald Trump to take action on a pair of national monuments in Utah.



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In a rare move, House Speaker Greg Hughes, R-Draper, filed a resolution Thursday asking the president to rescind the Bears Ears National Monument.

“ WHEREAS, the Bears Ears National Monument designation will forever remove the possibility of economic development and decimate the economy of the region with impacts felt around the state; WHEREAS, citizens in rural Utah deserve the equal opportunity to pursue happiness through the protection of their life, liberty, property, and right to determine their own destiny unimpeded by their own federal government,” the resolution states in part.

President Barack Obama designated 1.3 million acres of land in southeastern Utah as the Bears Ears National Monument last month. The move was praised by numerous Native American tribes for preserving a sacred site, but condemned by many in San Juan County and Utah’s Republican political leaders. The state of Utah has threatened a lawsuit over the creation of the monument, accusing the president of abusing the Antiquities Act.

Meanwhile, Rep. Mike Noel, R-Kanab, also filed a resolution on Thursday asking President Trump to shrink the boundaries of the Grand Staircase-Escalante National Monument.

“WHEREAS, for more than 20 years, the GSENM has had a negative impact on the prosperity, development, economy, custom, culture, heritage, educational opportunities, health, and well-being of local communities,” Rep. Noel’s resolution states in part.

The Grand Staircase-Escalante National Monument was created in 1996 by President Bill Clinton to protests from many in rural Utah.

A resolution in the Utah State Legislature is a statement by the body and carries no legally binding effect.

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#### **6. NATIONAL MONUMENTS: Chaffetz presses top Trump officials to reverse Bears Ears**

*E & E News, Jan. 26 | George Cahlink*

PHILADELPHIA — House Oversight and Government Reform Chairman Jason Chaffetz is urging top Trump administration officials to overturn former President Obama’s designation of the 1.35-million-acre Bears Ears National Monument in southeast Utah.



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"If it was created by a pen, it can be dismissed by the pen," the Utah Republican told reporters here as the GOP gathered for its annual legislative retreat. "We want to see Bears Ears reversed."

Chaffetz said he has made his case for overturning the designation directly with Vice President Mike Pence, White House Chief of Staff Reince Priebus and the nominee for Interior secretary, Rep. Ryan Zinke (R-Mont.). He added he believes Zinke is "very sympathetic" to reconsidering national monument designations "made at the eleventh hour."

Trump's position is not yet clear; he has supported increased energy exploration on some federal lands but also has shown interest in conservation.

Although Congress has done away with a handful of monuments, no president has ever sought to do so, and the Antiquities Act does not give presidents explicit authority to undo protections put in place by their predecessors.

Western lawmakers have long been critical of presidents' use of the Antiquities Act to designate monuments without congressional approval. Aside from Bears Ears, lawmakers have pressed to overturn the designation of Gold Butte National Monument in southern Nevada. Both decisions were approved by Obama in the last month of his presidency.

As chairman of the Oversight and Government Reform Committee, Chaffetz will have more power than most lawmakers to make the case for a reversal. He already has used his authority to request a trove of Interior Department documents related to the decisions to create monuments.

Chaffetz said his push for the documents will not end with the new administration. He suggested it will be easier to get them with a GOP administration taking over but conceded it might first require Zinke and others to be installed at Interior.

"Just because there is a change in administration does not mean the bureaucracy gets a pass on all the past requests," Chaffetz said. "Those [requests or subpoenas] will either be reissued or encouraged to follow up on. The government continues in perpetuity, and we still fully expect them to comply."

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#### 7. Conservation groups buck against Noel's bid for BLM director

*The Spectrum, Jan. 26 | David DeMille*

Kane County's own Mike Noel has been publicly campaigning for the position of director of the Bureau of Land Management, but a group of conservation advocates and outdoor recreation businesses are urging President Donald Trump's administration to look elsewhere.

The outspoken Republican legislator and backer of the state's efforts to wrestle away control of the vast federal public lands within Utah's borders has earned the support of many of Utah's political leaders, but his years of conflicts with conservation groups and others worried about his ability to protect the natural resources entrusted to the BLM.

In a letter sent to Vice President Mike Pence and Interior Department Secretary nominee Ryan Zinke, the Alliance for a Better Utah writes:

*Representative Ryan Zinke  
 Governor Mike Pence  
 January 25, 2017  
 Dear Mr. Vice President and Mr. Zinke,*

*The undersigned are writing to you as the Chairman of the Presidential Transition Team and nominee for the position of the Secretary of the Interior. As you and your colleagues in the Administration and Congress continue the important work of choosing those who will lead the various departments and agencies of our federal government, we write to voice our concerns over the reports that Representative Mike Noel, a member of the Utah House of Representatives, is actively pursuing his consideration as the next director of the Bureau of Land Management.*

*As you are well aware, the Bureau of Land Management is responsible for administering nearly 250 million acres of public lands across the country. Its core mission is to "sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations." We believe it would be irresponsible to entrust Rep. Noel with this mission and the responsibility to manage and administer our nation's public lands.*

*Over the years, Rep. Noel has espoused positions antithetical to leading the BLM. He has been a staunch opponent of the federal government. He believes law enforcement on federal public lands should rest with local sheriffs, and he has been an ardent advocate for Utah's multi-million dollar lawsuits seeking to have ill-prepared state governments, like Utah's, take title to federal public lands that belong to all Americans. Rep. Noel has also demonstrated his disregard*



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*for the thoughtfully and collaboratively crafted management plans of the Bureau he hopes to direct, instead throwing his support behind illegal protests on BLM land and the extraction companies that hope to expand their activities on public lands to the detriment of the protection and other uses of those lands. Rep. Noel's history strongly suggests that he will not be a good steward over these public lands that all Americans use and enjoy, and we believe his leadership would have a catastrophic impact on the outdoor recreation industry, an important part of Utah's economy, in addition to placing our treasured public lands in danger.*

*We are also alarmed by Rep. Noel's temperament and management style, something we believe should be considered when deciding who should hold this important position. During his time as a legislator, Rep. Noel has come to be known as a bully. When faced with opposition or disagreement, he interrupts, vilifies, and personally attacks his opponents. Rep. Noel has also shown he is unwilling to compromise and that his personal opinions on matters override all others - including those reached through collaborative compromise. This intransigent nature would hamper Rep. Noel in performing the duties that come with being BLM director, which include balancing all of the competing needs and uses that arise in managing our vast public lands. Finally, accusations of manipulation and conflicts of interest have dogged Rep. Noel during his time as a public servant and would no doubt continue to follow him as he moved into a higher position of power.*

*We urge you to consider the irreparable damage a man with Rep. Noel's beliefs, history, and temperament would do to this vital agency and the public trust that it holds on behalf of all Americans. We ask that you please reject his consideration as a candidate for director of the Bureau of Land Management.*

The letter is signed by, among others, business owners with companies like Black Diamond, Petzl America and Garbett Homes, along with former BLM Director Pat Shea and conservation groups like the Sierra Club, Southern Utah Wilderness Association and Western Values Project.

The anti-Noel coalition also launched a Change.org petition.

Noel, who worked for the BLM before becoming a member of the Utah Legislature and becoming director of the Kane County Water Conservancy District, has been one of Utah's most outspoken critics of federal land management.

Since Election Day, he's argued the Trump administration could help get the federal government to turn over public lands to state control and in recent weeks pushed for ways to overturn the designation of the Bears Ears National Monument.



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Earlier this month, a number of Utah politicians and other supporters from around the west started actively lobbying for Noel, and the representative said in an interview with The Spectrum that he had the support of the state's entire congressional delegation, along with an assortment of conservative groups and open-lands advocates, from off-highway vehicles groups to the Utah Sheriff's Association to the California-based open-access group BlueRibbon Coalition.

"Every member of the Utah delegation, the governor and elected reps from across the state have endorsed me and we're reaching out to other officials to get their help," Noel said.

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#### **8. 'Brown Bag Lecture' series returns with rangers, geologists, national monuments**

*St. George News, Jan. 26 | Press Release*

ST. GEORGE — The "Brown Bag Lecture" series returns on Fridays in February with an "Ask the Ranger" session, a geologist discussing the geology of Washington County and two informative sessions about national monuments.

The Bureau of Land Management and its partners host the one-hour lectures on Fridays beginning at noon. These offer unique opportunities for members of the public to learn more about natural resources and public lands in Southern Utah and the Arizona Strip.

The lectures are free, but given their popularity, it is recommended to reserve seats one week prior to each program at the Interagency Information Center, 345 E. Riverside Drive, St. George, or by calling 435-688-3200.

The lineup for February is as follows:

**Feb. 3 — Ask Ranger John Sims.**

Most of us, at one time or another, wanted to become a ranger. Here is your opportunity to ask a bona fide public lands ranger what the job is really like.

Hear about the highlights of a typical day, as well as the greatest challenges facing those charged with protecting public lands.

**Feb. 10 — Geology of Washington County with Mark Dershowitz.**



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Washington County lies at the convergence of three distinct geological areas: the Mojave Desert, Colorado Plateau and Great Basin. The county also boasts the largest laccolith (magma injected between layers of sedimentary rock) in the United States.

Retired geologist Mark Dershowitz will describe this astounding landscape.

**Feb. 17 — Friends of Gold Butte, Nevada with Jaina Moan.**

Gold Butte, one of the nation's newest national monuments, is located between Grand Canyon Parashant National Monument, Arizona, and Lake Mead National Recreation Area, just south of the City of Mesquite, Nevada.

Jaina Moan, executive director of Friends of Gold Butte, will relate what is now in store for this amazing area.

**Feb. 24 — Vermillion Cliffs National Monument.**

National Geographic has called Vermilion Cliffs National Monument a "little-known wonder." This dramatic piece of the Colorado Plateau includes the world-famous "Wave," as well as Buckskin Gulch, one of the longest slot canyons in the world, and is the home of a California condor release site.

Learn from monument staff about present and future management of the great resources contained within this spectacular landscape.

**About the Brown Bag Lecture series**

Speakers include geologists, range specialists, biologists, archaeologists, rangers and other specialists who cover subjects tied to the Arizona Strip and surrounding public lands.

For those who want to learn more before venturing out or are curious about these remote and rugged landscapes, the lectures are an excellent way to bring the resources and related issues to the community's doorstep.

The lecture series is sponsored by the Dixie/Arizona Strip Interpretive Association, BLM, National Park Service and U.S. Forest Service.

**Event details**

- What: Brown Bag Lecture series.



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- When: Each Friday in February at noon.
- Where: Interagency Information Center, 345 E. Riverside Drive, St. George | Telephone 435-688-3200.
- Cost: Free but advance seat reservations are advised as space is limited.

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#### **9. Move for state park at Hole in the Rock advances**

*The Salt Lake Tribune, Jan. 26 | Lee Davidson*

The Utah House on Thursday endorsed pursuing the possible creation a new state park on federal land around Hole in the Rock, a famous cleft in a cliff over the Colorado River that was traversed amid danger by early Mormon pioneers.

The House voted 68-4 to pass HB63, and sent it to the Senate for consideration.

Its sponsor, Rep. Keven Stratton, R-Orem, has said Mormon heritage groups would like to expand trekking operations here, but these efforts are thwarted by federal land agencies' 12-person limits on group sizes and a lack of camping and staging facilities.

Leasing federal land to create a new state park could solve those problems, he said, and his bill would allow state officials to pursue the possibility with the U.S. Bureau of Land Management and U.S. Forest Service.

"This is an opportunity for us to work with our federal counterparts in a synergistic way to look at an historically significant part of our state and enhance and improve it," Stratton told the House.

Hole in the Rock is important in Utah history because of a perilous six-month journey in 1879-80, which pioneers thought would only take six weeks. Pioneers cut a trail down a steep crevice at what they would call Hole in the Rock, and the name has stuck.

The pioneer company — which included 250 pioneers from Parowan, many of them children, as well as 1,000 head of livestock and 83 wagons — created an historic trail that led from Escalante across what are now the Grand Staircase-Escalante and Bears Ears national monuments to Bluff.

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#### E&E/NATIONAL NEWS – FULL STORY

##### 1. **Federal hiring freeze hits Western land agencies**

*High Country News, Jan. 25 | Anna V. Smith*

President Donald Trump announced a freeze on all federal hiring on Monday, eliminating any vacant positions and prohibiting the creation of new positions as of noon on Jan. 22. The presidential memorandum will affect all federal agencies except the military, and includes land management employees. It follows on the heels of another announcement that U.S. Department of Agriculture and Environmental Protection Agency grants and contracts will be frozen.

Trump's memorandum seeks to cut back the number of federal employees by an unspecified amount. In 2015, the Business Insider analyzed Bureau of Labor Statistics and found federal employee numbers to be the lowest in 54 years.

The memorandum did not make allowances for seasonal hires, a necessity for agencies like the National Park Service and Forest Service, which hire thousands of short-term rangers and other employees nationwide during the summer months. In an interview with the Missoulian, Melissa Baumann, council president of the National Federation of Federal Employees, said she did not know how this would impact the hiring of wildland firefighters. According to Baumann, the Forest Service hired 11,000 seasonal workers in 2015, many of them to fight the Western wildfires that break out between June and September. According to National Parks Traveler, the National Park Service is going ahead with identifying potential new seasonal hires in hopes that a waiver will be granted for some workers. A representative for the Forest Service said, “The U.S. Forest Service is waiting for further clarification and direction from the Office of Personnel Management related to the hiring freeze. We cannot speculate on the impact of the hiring freeze.”

The freeze comes at a time when the National Park Service, the Forest Service, National Wildlife Refuge System and Bureau of Land Management are seeing an increase in public use of the millions of acres they manage, and are struggling to keep up.

“(National parks) cannot continue to be hampered by low staffing, and that’s exactly what will happen with this hiring freeze,” says Theresa Pierno, president and CEO of National Parks Conservation Association, in a press release. “Park rangers are already forced to do more with less because they don’t have enough staff to handle record-breaking crowds.”



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The memorandum made allowances when hiring for “national security,” but it is unclear what that would mean, and if needs like hiring firefighters for the massive wildfires that are sure to hit the West would count. It included that contracting outside the government would not be allowed.

The hiring freeze is also antithetical to Trump’s campaign goals of increasing American jobs and energy production on public lands – something that would require more staff, not less. A recent survey from Public Employees for Environmental Responsibility showed that staffers at the Bureau of Land Management, where oil and gas exploration primarily occurs, already can’t keep up with current permitting responsibilities.

The hiring freeze comes as part of Trump’s campaign promise to cut down on federal oversight. On Monday, press secretary Sean Spicer framed it as a responsibility to American taxpayers, saying “to see money get wasted in Washington on a job that is duplicative, is insulting to the hard work that they do to pay their taxes.” The vast majority of the affected positions would not be in Washington D.C. A 1982 report by the Government Office of Accountability that reviewed four across-the-board federal hiring freezes under the Carter and Reagan administrations, found they are not effective at reducing the size and cost of the federal work force. Instead they “provided an illusion of control on federal employment and spending,” but end up setting agencies back, as they do not account for agency-specific needs and workload. For example, the report found the 1980 freeze under Reagan hampered the ability of the Interior Department to effectively monitor the Trans-Alaska Pipeline, as two important positions went unfilled. The report also suggested finding specific parts of government agencies to cut back, rather than a widespread freeze. It also found the Office of Management and Budget did not actually quantify how much money, if any, was saved by the freezes.

It’s unknown exactly how long the freeze will last, or what direct repercussions it will have. According to the memorandum, the Office of Management and Budget will come up with a long-term plan within 90 days to continue reducing the number of federal workers.

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#### **2. New House Bills Aim to Sell Off Public Lands and to "Get Rid of the BLM and US Forest Service Police"**

*Mens Journal, Jan. 26 | Tyghe Trimble*

On Tuesday, Jason Chaffetz (R-UT) introduced two bills (H.R. 621 and H.R. 622) with the explicit aim to sell Federal lands and “terminate the law enforcement functions of the Forest Service and the Bureau of Land Management.” While 622 never made it further than its



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introduction last year — a time when Secretary Sally Jewell ran the Department of Interior under the Obama administration — the chances of this bill going further are much more likely, given the Republican control of the House, Senate, and, now, the Executive branch of the U.S. government.

We'll be seeking comments and responses to these bills as the full text comes available, but for now, here's what's available:

On his website, Chaffetz details the two bills:

H.R. 622, Local Enforcement for Local Lands Act, first introduced last year, removes the law enforcement function from the Bureau of Land Management (BLM) and U.S. Forest Service. Instead, the bill calls for deputizing local law enforcement, combined with block grant funding, to empower existing duly elected law enforcement offices to carry out these responsibilities. The bill, jointly sponsored by Utah's Rep. Mia Love and Rep. Chris Stewart, also establishes a formula to reimburse local law enforcement based on the percentage of public land in each state. The resulting cost savings will reduce the BLM budget by five percent and the Forest Service by seven percent.

H.R. 621, Disposal of Excess Federal Lands Act, calls for the responsible disposal of 3.3 million acres of land identified by the Clinton Administration as being suitable for sale to non-federal entities. Encompassing just over one percent of total BLM land and less than half of one percent of all federal lands, these lands have been deemed to serve no purpose for taxpayers. In Utah, some 132,931 acres of land are eligible for disposal.

And from Congress.gov:

H.R.621 - To direct the Secretary of the Interior to sell certain Federal lands in Arizona, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, and Wyoming, previously identified as suitable for disposal, and for other purposes.

H.R.622 - To terminate the law enforcement functions of the Forest Service and the Bureau of Land Management and to provide block grants to States for the enforcement of Federal law on Federal land under the jurisdiction of these agencies, and for other purposes.

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#### 3. INTERIOR: Notices, correspondence to be reviewed by Trump team — memo

*E & E News, Jan. 26 | Jennifer Yachnin*

All Interior Department public notices as well as most correspondence will require review by the agency's top policy office for the foreseeable future, according to a memo sent to agency officials this week.

"As we begin a new administration, it is important that the incoming policy team has an opportunity to review documents," acting Deputy Secretary Julie Lillie instructed all chiefs of staff, bureaus and offices in a Friday memorandum obtained by E&E News.

All Federal Register documents and all correspondence to or from the secretary must be forwarded to the agency's Office of the Executive Secretariat and Regulatory Affairs for review, it said.

The OES normally oversees executive correspondence and regulatory affairs at Interior, including Freedom of Information Act requests and document production.

But the new memorandum notes that the office will now review "all incoming congressional and gubernatorial correspondence as well as correspondence from Indiana or Alaska tribal leaders and leaders from national level environment/recreational and industry organizations ... regardless of addressee or signature level."

Lillie added, "No correspondence should be cleared to go to Congress or to any Governor until it has been reviewed by the Acting Chief of Staff and/or Senior White House Advisor. The OES will be responsible for tasking these letters for response."

Sources familiar with previous White House transition processes who reviewed the document, but asked not to be identified, suggested the Trump administration could potentially be "burying itself in paperwork" or "paralyzing" the agency by requiring such a high level of review for all correspondence.

It was not immediately clear whether the memo would apply to solely formal correspondence or all communication, including emails.

Lillie concluded by noting that the "incoming leadership team" will determine whether to continue the review of correspondence. Montana Rep. Ryan Zinke (R) is expected to be confirmed as the next Interior secretary.



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The memo states that the Federal Register notices include proposed or final regulations or policy actions, notices of meetings, plat surveys, all notices related to National Environmental Policy Act documents, and other items.

Lillie said the new guidelines will require a five-day review period for "departmental clearance, regardless of signature level."

But Lillie said the memo is "standard practice."

"This memo is part of the Department of the Interior's standard practice to ensure a smooth transition of government from one administration to the other and allow new Department officials to have the opportunity to review agency actions for legal and regulatory compliance," she wrote in a statement to E&E News.

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#### 4. **COAL: Recouping court costs of 'national importance' — Murray**

*E & E News, Jan. 26 | Amanda Reilly*

Murray Energy Corp. is hoping to recoup nearly \$4 million from the federal government for its lawsuit over coal job losses tied to U.S. EPA air regulations.

The coal company yesterday told a federal court that it has spent \$3.9 million in attorneys' fees, expert witnesses and other costs since it first filed the lawsuit in 2014.

Obtaining a reimbursement was of "national importance," Murray argued in a motion, since "many diverse entities regulated under the Clean Air Act" would benefit from the court decision.

Murray's lawsuit, which it touted as pushing back against the Obama administration's "war on coal," charged that EPA had failed to comply with a section of the Clean Air Act requiring the agency to evaluate job losses and employment shifts brought on by regulations.

In October, Judge John Preston Bailey of the U.S. District Court for the Northern District of West Virginia ruled in Murray's favor, ordering EPA to submit a plan for assessing job losses. In response, EPA submitted a two-year plan for coming up with a methodology with the help of its science advisers (Greenwire, Nov. 2, 2016).



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Bailey, though, agreed with Murray that the plan was "wholly insufficient, unacceptable, and unnecessary," and earlier this month ordered EPA to submit an evaluation of the role of regulation on coal job losses by July 1 (Greenwire, Jan. 12).

Along with arguing that the case was of national importance, Murray says it is entitled to the \$3.9 million because the federal government unnecessarily prolonged the litigation.

The company said that the various EPA motions for dismissal, summary judgment and reconsideration — all of which Bailey denied — added up to create an "extraordinarily expensive" case.

"Fee shifting will encourage efficient litigation in future cases," Murray said, "and avoid deterring future plaintiffs from bringing suit out of fear of being forced to incur enormous expense by the government."

The Trump administration's Justice Department has not yet weighed in on the case. In December, EPA appealed Bailey's initial order to the 4th U.S. Circuit Court of Appeals.

In 2015, EPA successfully appealed a previous Bailey decision to allow Murray Energy to depose former EPA Administrator Gina McCarthy (Greenwire, Nov. 30, 2015).

A trio of West Virginia environmental groups are also appealing Bailey's decision last week to deny their motion to intervene in the case.

The groups had asked the judge to allow them to enter the litigation because they were worried that President Trump would not continue to defend EPA's position (Greenwire, Dec. 14, 2016). Bailey denied their motion as moot, noting that he had entered a final order and that the case was closed.

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#### **5. OREGON STANDOFF: Finicum's widow plans to hold government 'accountable'**

*E & E News, Jan. 26 | Maxine Bernstein, Portland Oregonian*

A year ago, Jeanette Finicum was watching her daughter's basketball game at Fredonia High School when she overheard something about a shooting in Oregon.



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She had just returned to Arizona from a weekend visit with her husband at the Malheur National Wildlife Refuge, where Robert "LaVoy" Finicum had become the spokesman for the armed takeover.

She grabbed her cellphone, dialed her husband's number but didn't get an answer. A short time later, she got a call from Lisa Bundy, the wife of refuge occupation leader Ammon Bundy.

"She told me LaVoy had been killed," Jeanette Finicum recalled this week. "It was horrific. They stopped the game. His mother and father and brother, my daughter were all there."

The family left the gym and gathered in a school hallway. Local officers at the game to watch their own daughters play accompanied the Finicums to the police station to try to learn what had happened.

Oregon State Police had shot and killed LaVoy Finicum, 54, after he sped away from a police stop on snow-covered U.S. 395 about 20 miles north of Burns as he and others left the refuge on Jan. 26, 2016.

Jeanette Finicum has returned to Oregon this week to gather supporters in John Day - the city where her husband was headed to speak at a town hall about the refuge seizure and the protest against federal control of public land when he died.

Saturday's meeting comes as questions remain a year later about the FBI's role in the confrontation. Jeanette Finicum said she intends to file a wrongful death lawsuit. In a notice of her intention to sue the Oregon State Police, FBI and other law enforcement agencies, she alleges negligence and violation of her husband's civil rights.

"I don't know if they'll hold anyone accountable unless we pursue that," she said.

That day, LaVoy Finicum swerved into a snowbank to avoid a police roadblock. He emerged from his white truck, stumbled on top of the snowbank and was shot three times in the back as investigators said he tried to reach into his jacket at least two times to grab a loaded 9mm pistol.

The fatal shooting of Finicum and arrest of Ammon Bundy and other key occupation figures marked the beginning of the end of the refuge seizure.

Officers fired eight gunshots that night. The district attorney in neighboring Malheur County, charged with overseeing the investigation, found that state police fired six times, including three shots that struck Finicum. He ruled the state police shooting was justified.



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A federal investigation continues into two shots fired by an FBI agent the moment Finicum emerged from his truck - one hit the roof of the truck and one went astray. Oregon investigators believe that members of the FBI Hostage Rescue Team at the scene picked up shell casings to hide the shots and have lied about what happened, according to court records, investigative reports and law enforcement sources.

A federal grand jury has convened as part of the federal inquiry. Part of the challenge has been determining which of the FBI agents fired the shots.

Oregon investigators continue to interview members of the Hostage Rescue Team and potential witnesses, according to the Deschutes County Sheriff. The U.S. Department of Justice's Office of the Inspector General, along with the U.S. Attorney's Office, are leading the inquiry.

Jeanette Finicum said the John Day gathering will serve to honor her husband. She'll introduce her children, she said, but added, "This isn't about us, the Finicum family. This is about our liberties that are being lost in lots of different ways."

Among the speakers are one of Ammon Bundy's lawyers, J. Morgan Philpot, who's now representing Jeanette Finicum in a dispute over grazing fees with the U.S. Bureau of Land Management. Also invited is KrisAnne Hall, a radio talk show host and prominent Tea Party figure, and Grant County Sheriff Glenn Palmer, but it's not clear if Palmer will show.

Grant County logger Tad Houpt, who met Jeanette Finicum last year at the makeshift memorial that sprung up at the site where her husband was killed, rented out the pavilion at the John Day Fairgrounds for the gathering.

Houpt owns about 400 acres near Canyon City, just south of John Day. He said he's still cleaning up from the 2015 Canyon Creek Fire that destroyed two of his homes and decimated much of his timber.

He visited the refuge during last winter's occupation to find out for himself what was going on and invited Ammon Bundy, his brother, Ryan Bundy, and others to John Day for the community meeting.

Houpt said he's angry over what he calls government's mismanagement of forestlands that he believes helped fuel the Canyon Creek Fire. He also was disturbed by the return to federal prison of Harney County ranchers Dwight Hammond Jr. and his son, Steven Hammond, last year to serve out five-year mandatory minimum sentences for setting fire to public land.



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"The federal government is a very poor neighbor in eastern Oregon," Houpt said.

About 450 tickets have been sold for Saturday's event. The Pavilion has a 999-person capacity, Fairgrounds Manager Mindy Winegar said. Grant County Judge Scott W. Myers signed off on the rental.

"We have no intention of interfering with someone's right to assemble and their right to free speech," Myers said.

Jeanette Finicum testified for the defense at last year's trial of the Bundy brothers and five others - all acquitted on federal conspiracy charges in the occupation.

She maintains her husband "wasn't trying to avoid authorities" when he fled in his truck on Jan. 26, 2016, but simply wanted to make it to John Day to see Grant County's sheriff.

She said she's thankful for the support her family has received in the past year.

"I hope people are inspired in their own ways to move forward the cause of liberty in a positive, respectful peaceful manner," she said.

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#### 6. **WYOMING: Bill would require utilities to use fossil fuels**

*E & E News, Jan. 26 | Mead Gruver, AP/San Francisco Chronicle*

CHEYENNE, Wyo. — A group of Wyoming lawmakers is bucking the U.S. trend of stricter renewable energy requirements with a plan to do the opposite: fine utilities if they provide energy produced by wind or the sun.

Blustery Wyoming ranks among the top states for wind-energy potential, but the coal, oil and natural gas industries are the backbone of the state's economy.

With a \$360 million budget shortfall in public education caused by downturns in those industries and state revenue declines, legislators are hard-pressed for solutions.

Renewable energy, some say, has been overly promoted and subsidized by government at the expense of the fossil fuel industry.



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“I want the electricity at my house generated by coal, because that’s the cheapest way to go,” said state Rep. David Miller, a Republican, of the fossil-fuel requirement he’s co-sponsoring.

The measure makes for an increasingly complicated relationship between Wyoming and renewable energy, even as roads are built for the biggest land-based wind project in the U.S.

The Chokecherry and Sierra Madre project in south-central Wyoming will have 1,000 turbines and be able to generate electricity for close to 1 million homes in a state with just 584,000 people.

The project will sprawl across 340 square miles where wind speed averages frequently gust above 50 mph.

Wyoming is the nation’s top coal-mining state, but some experts question whether favoring coal would make energy cheaper for customers over the long term.

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#### **7. HYDRAULIC FRACTURING: Study links fracking fluids to health problems in trout**

*E & E News, Jan. 26 | Juris Graney, Vancouver Sun*

Non-lethal doses of fluids produced by hydraulic fracturing have been found to cause liver and gill damage in rainbow trout, a team of researchers at the University of Alberta say.

The fluids, which can contain high levels of metals such as barium, cadmium and lead, along with organic compounds, can also create oxidative stress in rainbow trout, long considered the “white rat” of environmental biology.

Oxidative stress is associated with long-term biological damage.

The study is the first to use actual samples supplied from the industry, said co-project lead Greg Goss, a professor in the University of Alberta’s Department of Biological Sciences.

“Everybody knows it’s not honey water, it’s an industrial effluent,” he said.

Canada’s largest natural gas producer, Encana, supplied the samples but had no further input in the research, Goss said, adding that their research will help industry improve its environmental performance, practices and risk management in the case of a spill.



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There were more than 2,500 accidental fluid spills in Alberta between 2011 and 2014, the study stated.

“The end goal is to understand the effects of the spills, should they occur, on native aquatic animals,” Goss said.

“This will help in both environmental policy, water treatment options for on-site water management and improved mitigation policy and programs.”

Goss was cognizant environmental groups will jump on this research as further evidence that fracking should be banned or that industry may push for fewer regulations. But he doesn’t believe either side should jump to conclusions.

“I’m a big believer that you can have industrial activity that’s good environmental management and that the trade-offs are being adequately managed,” he said.

“Hydraulic fracturing is a process that’s got tremendous economic and social benefits in terms of its provision of relatively inexpensive energy.

“I don’t believe it should be banned. I think what we need to do is have both an improved environmental practice and a firm awareness of the understanding of the impacts where you can make those value judgments.”

The other co-leads on the study were Daniel Alessi in the faculty of science and Jon Martin in the faculty of medicine and dentistry.

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#### **8. NORTH DAKOTA: Bill influenced by Dakota Access protests faces questions**

*E & E News, Jan. 26 | John Hageman, Billings Gazette*

A bill that would make it a crime for protesters to wear masks generated fierce debate at a North Dakota legislative committee hearing Tuesday.

The hearing raised questions about the constitutionality of the bill, which was influenced by the Dakota Access pipeline protests. Many of the Dakota Access protesters donned gas masks to protect themselves in case of skirmishes with law enforcement.



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House Majority Leader Al Carlson (R) said H.B. 1304, which he introduced, would help ensure the safety of both peaceful protesters and police officers. He rebutted the idea that the bill would run counter to the First Amendment.

"I would be the first to defend your right of free speech and freedom of assembly," Carlson said. "I'm always concerned when there's a reason that, I believe, may be used to hide your identity when you're creating some kind of disturbance."

But Jennifer Cook, policy director for the American Civil Liberties Union of North Dakota, said a close reading of the First Amendment shows that the bill is unconstitutional.

"The U.S. Supreme Court has consistently interpreted the First Amendment to shield a broad and expansive array of speech," Cook said in prepared testimony. "Expression does not only come in the form of the spoken word, but also in the intentional expression of an idea through expressive activities."

The bill would make it a Class A misdemeanor for a protester to intentionally conceal his or her identity by wearing a mask, hood or "other device that covers, hides or conceals any portion" of the protester's face while appearing on a roadway or on public property, or while holding a demonstration on private property without written permission from the property owner (John Hageman, Billings Gazette, Jan. 25). — MJ

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#### 9. COURTS: Climate plaintiffs to feds: Don't destroy evidence

*E & E News, Jan. 26 | Benjamin Hulac*

Lawyers for a group of kids and young adults suing the U.S. government over climate change destruction are demanding federal agencies retain all documents related to the case.

The request is the latest in a string of attempts to preserve scientific data since the Trump administration began scrubbing environmental topics from its online footprint.

In a [letter](#) sent Tuesday, Philip Gregory, an attorney for the plaintiffs, told federal departments to hold on to all hard-copy and digital files related to the lawsuit, noting climate information was pulled from federal websites swiftly after President Trump took office (Climatewire, Jan. 25).



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Several U.S. sites about climate change, energy and emissions information "have been removed or altered from the federal government's worldwide web domain," the letter reads, "limiting plaintiffs' access to relevant and discoverable documents."

Gregory's request applies to trade associations that represent fossil fuel and manufacturing companies, too.

In a statement to E&E News, Gregory said the Trump administration's move to wipe climate change information from public viewing worried him and his colleagues.

"We also are concerned about how deep the scrubbing effort will go," Gregory said.

"We wanted to put both the Federal Defendants and the Industry Defendants on notice that they are barred from doing so," he added. "Destroying evidence is illegal."

The plaintiffs filed their lawsuit in 2015, accusing the U.S. government of exacerbating climate change, despite knowing the dangers of global warming for decades.

In October of that year, three industry groups — the American Petroleum Institute, American Fuel & Petrochemical Manufacturers, and the National Association of Manufacturers — intervened to block the suit. While some dismissed the case against the federal government as a preposterous long shot when litigation began two years ago, the plaintiffs have won key court decisions to proceed.

Legal experts say the trade groups may have committed a significant error by intervening, a move that opened them up to discovery and could force them to turn over internal memos.

A Department of Justice attorney assigned to the case said he couldn't talk about it, and lawyers for the industry associations didn't reply to requests for comment.

Julia Olson, who represents the plaintiffs, said API's involvement, for example, gives her the opening to depose Rex Tillerson — the former boss of Exxon Mobil Corp. and the president's pick to lead the State Department — because he was an API board member.

Discovery could also be used to depose or question others associated with API, AFPM or NAM, as well as their member companies.

Tillerson was scheduled for a deposition last week in Dallas, but plaintiffs' attorneys said his attorneys have been resisting.



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#### 10. **CLIMATE: Industry urges White House to ax social cost of carbon**

*E & E News, Jan. 26 | Hannah Hess*

The Air-Conditioning, Heating and Refrigeration Institute today called on President Trump to withdraw the latest update to the social cost of carbon.

Echoing Republican critics of the Obama-era metric, the head of the industry group argued that the interagency working group's analysis was reached through a closed-door, nontransparent process.

"By using the SCC as a basis for cost-benefit analyses to validate unreasonable efficiency regulations — without stakeholder input on the estimates — we believe the previous administration violated its responsibility under the Administrative Procedures Act," stated AHRI President and CEO Stephen Yurek.

The working group's process and output have been validated by federal courts. In a unanimous ruling last summer, the 7th U.S. Circuit Court of Appeals upheld the Department of Energy's use of the metric in its analysis of efficiency standards for commercial refrigeration equipment (Greenwire, Aug. 9, 2016).

Currently set at \$36 per metric ton of carbon dioxide, the rule has been used in more than 150 regulatory actions since 2008. It is used to estimate the long-term economic damage to society, in U.S. dollars, from each incremental ton of carbon dioxide released into the atmosphere.

AHRI argues several of the rules affecting its members have not adequately considered higher equipment costs for consumers or energy, production costs and job losses for manufacturers.

"This new administration has promised to aid manufacturers that have had to endure an unprecedented number of regulations which increased the cost of doing business in America, harmed consumers, stifled job creation and hurt our global competitiveness," Yurek said. "Removing SCC calculations as a justification for regulations is an excellent place to start."

AHRI requests that Trump direct federal agencies to cease using the SCC analysis and prevent its further use in the rulemaking process.



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Members of Trump's transition team and Republicans on Capitol Hill have urged an attack on the calculations as a means of unraveling the Obama administration's climate agenda (E&E Daily, Dec. 8, 2016).

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#### **11. FEDERAL AGENCIES: House Dems call gag orders unlawful**

*E & E News, Jan. 26 | Geof Koss*

House Democrats are calling on the White House to immediately ease instructions to federal employees that limit external communication, saying the restrictions run afoul of whistleblower protections and other federal laws.

In a letter sent today to White House Counsel Donald McGahn II, House Oversight and Government Reform ranking member Elijah Cummings (D-Md.) and Energy and Commerce ranking member Frank Pallone (D-N.J.) said gag orders limiting external communications may violate the Whistleblower Protection Enhancement Act by barring workers from communicating with Congress.

The [letter](#) argues that the gag orders also violate provisions of the omnibus appropriations law of 2016 that bar funding for federal employees who prevent other workers from communicating with Congress.

Additionally, Cummings and Pallone noted a 1912 statute that protects federal workers' rights to reach out to lawmakers.

"For more than a century, Congress has protected the rights of federal employees to communicate with Congress about waste, fraud, and abuse in the Executive Branch," the pair wrote. "We urge you to immediately rescind all policies on employee communications that do not comply with the Whistleblower Protection Enhancement Act and other federal statutes."

They also wrote that "because of the magnitude of these problematic directives, we request that the president issue an official statement making clear to all federal employees that they have the right to communicate with Congress and that he and his administration will not silence or retaliate against whistleblowers."



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A White House spokeswoman said in response: "It is not uncommon for an agency in transition to pause the old policies of a previous administration in order to ensure full compliance with the law."

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#### **12. EPA: Dems push back against agency grants freeze**

*E & E News, Jan. 26 | Kevin Bogardus*

The Trump administration's initial move to freeze grants at U.S. EPA is being met with a fierce backlash from Democrats on Capitol Hill.

In a [letter](#) sent today to President Trump, five senators in the Democratic caucus asked that the EPA freeze on grants be reversed. They were Sens. Ed Markey (D-Mass.), Bernie Sanders (I-Vt.), Kirsten Gillibrand (D-N.Y.), Jeff Merkley (D-Ore.) and Tom Carper (D-Del.), ranking member on the Senate Environment and Public Works Committee.

The senators said EPA awards its grants on a competitive basis so they are "merit-based and free from political influence."

"This action seems likely to result in the opposite outcome. We urge you to immediately lift the suspension that was placed on the EPA's grants and contracts," said the senators.

In a separate [letter](#) sent earlier in the week to Trump, Sen. Tom Udall (D-N.M.) also took aim at the EPA grants freeze. The senator said he was alarmed that Congress, including the Appropriations subcommittee that funds EPA where he is ranking member, was not informed of the decision.

"Agency grantees from New Mexico have been contacting my office alarmed by these reports and the lack of any clear information from the agency," Udall said.

Both letters ask for more information from Trump on how the grants freeze came about.

Markey and others asked for several items, including a list of suspended grants and contracts as well as who in EPA and the White House approved of the freeze. Udall asked for the complete text of the order to freeze grants as well as a report detailing its impact.



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EPA's grants freeze is supposed to end tomorrow. Several programs were not affected, such as revolving fund accounts as well as brownfield and Superfund cleanup projects (Greenwire, Jan. 25).

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#### **13. DAKOTA ACCESS: Protesters sent home as fight shifts to D.C.**

*E & E News, Jan. 26 | Jenny Mandel*

Anti-pipeline protesters were told to leave a prominent camp in North Dakota, days before President Trump signed executive actions Tuesday to advance the Dakota Access pipeline.

The Oceti Sakowin Camp in Cannon Ball, N.D., for months was the main rallying point for Dakota Access opponents, who camped on land just outside the reservation to block construction work on a final portion of the oil pipeline. Energy Transfer Partners LP's 1,172-mile project is about 95 percent complete.

But the Standing Rock Sioux Tribe has recently joined state officials in asking residents of the camp to leave, pointing to the dangers to protesters posed by harsh winter conditions and spring flood risks, as well as contamination risk to local waterways during flooding.

Yesterday in a call with reporters, Standing Rock Sioux Chairman Dave Archambault II said Trump's issuance of an executive order intended to accelerate completion of the project does not change the tribe's call for protesters to move out (Energywire, Jan. 25).

"We're trying to build relationships back with the state, we're trying to provide safety and health for people that are in the floodplain," Archambault said. "We're asking that the camp be cleared, and we're asking that people don't come."

As host to the loosely organized group of activists at the site, the tribe has a careful balance to strike between welcoming the support of the thousands of people who have visited to protest on its behalf, many for long stretches of time, and maintaining positive working relationships with neighbors and residents who are impacted by the camp, and by the closure of a key highway nearby for security reasons.

On Friday, before the administration's latest action, the Standing Rock Sioux Tribal Council unanimously passed a resolution asking that all temporary camp residents leave the area, and



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requesting assistance from federal law enforcement personnel in removing anyone who does not comply.

In a statement, the tribe thanked protesters for their support and asked them to leave.

"The Standing Rock Sioux Tribe is grateful to all who have stood with us during our efforts to secure a thorough review of the Dakota Access Pipeline. Because we worked together, the Federal Government will prepare an Environmental Impact Statement. Moving forward, our ultimate objective is best served by our elected officials, navigating strategically through the administrative and legal processes," the council said.

"We ask the protesters to vacate the camps and head home with our most heartfelt thanks. Much work will be required to clean up before the spring thaw, which will flood the area. It is imperative we clean the camps and restore them to their original state before this flooding occurs," the statement said.

#### **'Paying a severe cost'**

Archambault yesterday said he had spoken with some of the councilmembers following the president's announcement and they remained firm on the desire to close the camps.

While he said the tribe was thankful for the attention the protesters had brought to its fight, Archambault added that, at this point, the camp "is negatively impacting our people, our membership [and] our children," and "we're paying a severe cost for it."

A statement from the local county sheriff's office said law enforcement was monitoring the camps for renewed protest activities and would step in if necessary. "We are hopeful that this announcement brings us closer to finality in what has been an incredibly challenging time for our citizens and law enforcement professionals. Having dealt with riots, violence, trespassing and property crimes, the people of Morton County are looking forward to getting back their normal lives," said Morton County Commission Chairman Cody Schulz.

In a letter to the White House yesterday, North Dakota Sen. Heidi Heitkamp (D) asked Trump for federal funds in light of "the overall inaction by the federal government to directly engage on dealing with the protest situation." She noted that state and local government agencies have faced unexpected costs and personnel challenges in responding to the protests.

"With your decision to expedite review of the previous administration's decisions and a signal that you support finishing construction of the DAPL, I anticipate protests will again increase,"



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the senator wrote, asking for additional support "to ensure the situation does not become dangerous."

Yesterday, Archambault said he expects the tribe's experience in being steamrolled in its environmental advocacy will become more widespread in the Trump administration, and he pointed activists toward engagement at the federal level.

"You've got to start getting the letters in the mail, contacting those representatives, meeting those representatives," Archambault said. "We're asking people to stand up and go to D.C. ... The fight is now in D.C."

#### **Dispersed action**

On Tuesday evening, hours after the White House announced it would press for action on the Dakota Access and Keystone XL pipelines, a crowd gathered outside the White House to protest.

Activists from 350.org, the Indigenous Environmental Network, the Sierra Club, the International Indigenous Youth Council at Standing Rock and other groups chanted as the crowd grew to several hundred, many carrying elaborate signs prepared for previous protest events. A similar protest took place in New York City.

Speaking by phone, Lena Moffitt, director of the Sierra Club's Beyond Dirty Fuels Campaign, said she expects to see more such street protests across the country and that they will bring together activists from environmental, racial justice and other movements — "an intersectional gathering of constituencies."

"I think the entire progressive movement is pretty energized by what happened on Saturday," she said, referring to the women's march events that took place in cities around the world. The Sierra Club announced yesterday that it is working with environmental groups and other advocates to organize a "people's climate march" on April 29 across the country.

Rather than becoming tapped out by such repeated protests, Moffitt said, she sees people looking for new, creative forms of protest beyond the legal challenges that are underway against various Trump initiatives.

Yesterday, Twitter lit up with admonitions for users to file comments on the Dakota Access pipeline's environmental impact statement. Moffitt said the Sierra Club and its allies are "still learning" how Trump will respond to protests but pointed to his activity on Twitter as a sign that social media advocacy is getting through to the president.



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#### 14. **CLEAN POWER PLAN: States seize on another angle to challenge rule**

*E & E News, Jan. 26 | Amanda Reilly*

States this week opened a new front in the legal battle over the Obama administration's signature climate change rule.

Led by West Virginia, 19 states on Monday filed a petition asking a federal court to review U.S. EPA's recent decision to deny several requests to administratively reconsider the Clean Power Plan. All of the states are already challenging the underlying rule.

Oklahoma, which has been a key opponent of EPA in the Clean Power Plan litigation, is notably absent from the new lawsuit. President Trump has nominated the state's Republican attorney general, Scott Pruitt, to lead EPA; the Senate Environment and Public Works Committee likely will soon vote on his confirmation.

The Clean Power Plan required states to develop and put in place plans to reduce carbon dioxide emissions from existing power plants. In an unexpected move, the Supreme Court in February stayed the rule until litigation is resolved.

Earlier this month, EPA denied most of the 60 requests it received to reconsider the rule.

Twenty-two of the petitions from states, electric utilities and interest groups asked EPA to pause the program, while the rest of the petitions raised a variety of complaints about the rule. The petitions brought up many of the same issues that foes have raised in other court challenges, including that the Clean Power Plan was not a "best system of emission reduction" that complied with the Clean Air Act.

EPA denied all the requests except a handful of reconsideration petitions focused on waste-to-energy and biomass issues. The agency deferred those issues, noting that a separate agency scientific and technical investigation on biomass may clarify the treatment of that fuel (Energywire, Jan. 13).

The new lawsuit over the petition denials comes as the U.S. Court of Appeals for the District of Columbia Circuit may soon issue a ruling on the legality of the Clean Power Plan.



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In September, 10 judges of the court heard nearly seven hours of oral arguments, mostly centering on whether the Clean Air Act gave EPA the authority to issue the rule.

Challengers also argued that EPA issued a final rule that was too different from its proposal, but judges then seemed skeptical of that argument since EPA had not yet responded to the petitions for reconsideration that raised the same concern.

President Trump's Justice Department has yet to formally weigh in on the Clean Power Plan in court, but the new administration has pledged to get rid of the rule.

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#### **15. DAKOTA ACCESS: Standing Rock leader asks Trump to respect EIS**

*E & E News, Jan. 26 | Cecelia Smith-Schoenwalder*

Standing Rock Sioux Chairman Dave Archambault II urged President Trump to allow completion of the full environmental impact statement for the Dakota Access pipeline in a letter published today.

The letter comes after Trump this week signed a presidential memorandum to direct the Army Corps of Engineers to reconsider its decision last year to perform an additional environmental review of the \$3.8 billion project.

"This change in course is arbitrary and without justification; the law requires that changes in agency positions be backed by new circumstances or new evidence, not simply by the president's whim," Archambault wrote in the [letter](#).

Advocates for the pipeline say Trump's action corrects the project's course after the Obama administration ordered an in-depth EIS for the project last year (Energywire, Dec. 5, 2016).

The EIS is under a public comment period until Feb. 20, but Trump's memorandum allows for the "rescinding or modifying" of the Obama administration's decision.

In the letter, Archambault points to concerns over "close personal ties" Trump and his associates have had with the pipeline's company, Energy Transfer Partners LP (Greenwire, Oct. 26, 2016).

Members of the Standing Rock Sioux Tribe met with members of Trump's transition team last year, but Archambault now says they may have "gotten off on the wrong foot."



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"In order to work together, we must be at the same table and hear both sides of the story," he wrote.

The letter asks for a meeting with Trump, saying "we must have the opportunity to speak, leader to leader."

Just days before Trump's memorandums, pipeline protesters were asked to leave the camp in North Dakota due to harsh winter conditions and possible spring floods (Energywire, Jan. 26).

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#### **16. FEDERAL AGENCIES: Top State Department managers resign — report**

*E & E News, Jan. 26 | Robin Bravender and Hannah Hess*

Top State Department officials resigned yesterday, ahead of Rex Tillerson's expected confirmation to become the next secretary of State, The Washington Post reported today.

The departures include the "entire senior level of management officials," according to the Post.

Those who resigned include State's undersecretary for management, Patrick Kennedy; Assistant Secretary of State for Administration Joyce Anne Barr; Assistant Secretary of State for Consular Affairs Michele Bond; and Ambassador Gentry O. Smith, director of the Office of Foreign Missions. Kennedy is expected to retire from the foreign service at the end of the month, while the other officials could get assignments elsewhere in the foreign service. Several other officials departed yesterday, and others have left since the presidential election.

The exodus is "the single biggest simultaneous departure of institutional memory that anyone can remember, and that's incredibly difficult to replicate," David Wade, who was State Department chief of staff under Secretary of State John Kerry, told the Post. "Department expertise in security, management, administrative and consular positions in particular are very difficult to replicate and particularly difficult to find in the private sector."

Asked about the departures, a State Department press staffer sent a statement from acting spokesman Mark Toner: "As is standard with every transition, the outgoing administration, in coordination with the incoming one, requested all politically appointed officers submit letters of resignation. The Department encourages and advocates for senior officers to compete for high level offices in the Department."



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Toner stressed these positions are political appointments, which require Senate confirmation, not career appointments.

"Of the officers whose resignations were accepted, some will continue in the Foreign Service in other positions, and others will retire by choice or because they have exceeded the time limits of their grade in service. No officer accepts a political appointment with the expectation that it is unlimited," Toner said.

All officers understand that the president may choose to replace them at any time, Toner said, and praised them for their service.

Senate Majority Leader Mitch McConnell (R-Ky.) has announced plans for the Senate to vote next week on Tillerson's nomination (E&E News PM, Jan. 24).

Environmentalists have assailed the former Exxon Mobil Corp. CEO's nomination to lead the State Department.

"We know former ExxonMobil CEO Rex Tillerson is dangerous, we know he's unqualified, we know Americans doesn't want him representing them, and it now seems like the most senior officials of the State Department know it too," Greenpeace USA climate and liability campaigner Naomi Ages said today in a statement.

"It's unclear why exactly these officials resigned in every case, but it seems certain that they didn't agree with the direction Trump and Tillerson are taking our foreign policy. It is still possible for our Senators to change course and reject Rex Tillerson. It's their duty to stop this disaster from unfolding any further."

Leadership of the office at the forefront of the State Department's climate work remains unchanged. Judith Garber continues to serve as acting assistant secretary of the Bureau of Oceans and International Environmental and Scientific Affairs, a post she was appointed to in 2014, a spokesperson confirmed this afternoon.

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